

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Cogdill Analyst: LuAnna Hass Bill Number: AB 1057

Related Bills: See Prior Analysis Telephone: 845-7478 Amended Date: APTBA

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Donations of Material, Equipment or Services for Highway Maintenance or Enhancement Credit

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended June 5, 2001.
- ☐ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended June 5, 2001.
- ☒ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO _____.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED June 5, 2001, STILL APPLIES.
- ☒ OTHER - See comments below.

SUMMARY

This bill would allow a credit for roadside maintenance and enhancement.

SUMMARY OF AMENDMENT

The proposed amendments would:

- Define the value of materials and equipment donated by reference to an amount that would otherwise have been deductible as a charitable contribution.
- Clarify the verification guidelines for the value of materials, equipment, and services donated.
- Specify that the value of services that are donated by a taxpayer will not include any services for which the taxpayer received compensation.
- Clarify that the credit received for services donated will not be considered compensation for services.
- Remove "services donated" from the Corporation Tax Law section that would be added by this bill.
- Make a technical correction to change "carried forward" to "carried over."

Board Position:

☐ S ☐ NA ☐ NP
☐ SA ☐ O ☐ NAR
☐ N ☐ OUA ☒ PENDING

Legislative Director

Date

Brian Putler

12/20/01

In addition, the proposed amendments resolved the department's technical considerations by accepting the amendments suggested in the department's analysis of the bill as amended June 5, 2001. As a result of the proposed amendments, the department has identified an additional implementation consideration and departmental costs. The remainder of the department's analysis as of June 5, 2001, still applies. The following policy considerations still apply and are included below for convenience.

POSITION

Pending.

IMPLEMENTATION CONSIDERATION

This bill was introduced in the 2001 legislative session and would allow taxpayers a credit for taxable years beginning on or after January 1, 2001. If this bill were enacted in the 2002 legislative session, the credit allowed by this bill would be considered retroactive to the specified operative date of January 1, 2001, and credits claimed by taxpayers could be construed as a gift of public funds. In addition, the department has already developed the forms and instructions for the 2001 taxable year. Thus, the department may incur additional costs to develop additional tax forms and instructions in the short time frame necessary to ensure they are available for taxpayers. To alleviate these concerns, the author may wish to change the operative date to January 1, 2002.

DEPARTMENTAL COSTS

Annual system changes and tax forms have been completed for the 2001 taxable year. Due to the effective date stated in this bill of January 1, 2001, the retroactive effect of this credit would cause the department to incur significant costs in updating systems and creating alternative tax forms. In addition, retroactive credits could increase the number of amended returns received by the department, which would also incur administrative costs.

ARGUMENTS/POLICY CONCERNS

This bill would allow taxpayers a credit for the value of "time" as a service that is donated, which is unprecedented. Credits generally are allowed to taxpayers for actual expenses paid or incurred.

Under existing law, a taxpayer contribution of property, including materials, equipment, or services may be limited to the cost paid or incurred by the taxpayer (basis) for the property. A credit that is based on the fair market value of the property contributed to the state as opposed to the basis could potentially be construed to be an amount realized on the disposition of that property, producing a gain subject to federal income tax.

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